THE HON'BLE SRI JUSTICE C.V. RAMULU

Monday, 27th November,2006

W.P.No.24377 of 2006

Between :

B. Venkateswarlu … Petitioner

and

The District Collector,

Ongole, Prakasam District

and others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.24377 of 2006

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the Order of the 2nd respondent in Proceedings Rc.CS2/981/2006, dated 24-4-2006 remanding the matter to the 3rd respondent-Revenue Divisional Officer for fresh consideration and rejecting the stay application filed seeking stay of the Order dated 7-3-2005 passed by the 3rd respondent as arbitrary and illegal.

It appears that the petitioner is a fair price shop dealer of Nagambotlapalem village, Tallur Mandal, Prakasam District. While so, his authorization was cancelled by an Order dated 7-3-2005 of the 3rd respondent. Aggrieved by the same, he had filed an

appeal before the 2nd respondent-Joint Collector. Respondent No.2, after considering the matter, remanded the matter back to the 3rd respondent for fresh consideration.

According to the petitioner, during the pendency of the appeal, in view of the orders passed by this Court in Writ Petition No.5493 of 2005, dated 30-11-2005 he continued as fair price shop dealer, since status quo obtaining as on that day was directed to be maintained. Whereas, it seems, some third party was already appointed as a temporary dealer and, therefore, the status-quo order granted did not yield any result in favour of the petitioner. However, the very appeal has been disposed of by the 2nd respondent through the impugned Order dated 24-4-2006. Now the contention of the learned counsel for the petitioner is that the appeal was remanded without hearing the petitioner and without any notice to him. Once the matter is remanded, the petitioner is automatically entitled for continuation as a fair price shop dealer. Whereas, learned Government Pleader appearing for the respondents states that the status quo order did not yield any result in favour of the petitioner as third party is continuing as a fair price shop dealer. In view of the above, even if the matter is remanded by the 2nd respondent, the question of allotment of shop in his favour does not arise.

I have looked into the impugned Proceedings and other material made available on record.

Respondent No.2 himself in his Order dated 24-4-2006 has noted as under:

> "As could be seen from the material available on record and also the contention of the appellant, it is felt by this Court that the matter has to be still got enquired into duly following the procedure in vogue to finalize the disciplinary case against the appellant.
>
> Hence, the case is remitted to the Revenue Divisional Officer, Kandukur to conduct *de novo* enquiry and to finalize the matter within four weeks from the date of issue of these orders. Till then alternate arrangements to be made by the Revenue Divisional Officer to avoid inconvenience to the cardholders as well as for smooth running of PDS. After due consideration the stay applied for in this case is rejected."

I am of the opinion that once the 2nd respondent felt that there is something more got to be enquired into, it must be deemed that the charges levelled against the petitioner were not proved and the order of the 3rd respondent-Revenue Divisional Officer was, in fact, set aside and the matter was remanded. Under those circumstances, I am of the opinion that during the pendency of consideration of the entire matter by the 3rd respondent, the petitioner shall be permitted to be continued as fair price shop dealer.

With the above directions, the Writ Petition is disposed of. No order as to costs.

27-11-2006

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